

MONDAY, JULY 9, 2001

SIXTY-SECOND LEGISLATIVE DAY

The House met at 1:00 p.m. and was called to order by Mr. Speaker Naifeh.

The proceedings were opened with prayer by Representative Scroggs.

Representative Scroggs led the House in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present.....96

Representatives present were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Kisber, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Williams, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 96.

EXCUSED

The Speaker announced that the following member(s) has/have been excused, pursuant to request(s) under **Rule No. 20**:

Representative Langster; business reasons.

Representative Pinion; family illness.

Representative Stanley; personal reasons.

SPONSORS ADDED

Under **Rule No. 43**, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

House Joint Resolution No. 588: Rep(s). Boyer as prime sponsor(s).

RESOLUTIONS

Pursuant to **Rule No. 17**, the following resolution(s) was/were introduced and placed on the Consent Calendar for July 9, 2001:

House Resolution No. 176 -- Memorials, Personal Occasion - David Earl and Emma Lee Ferguson, 50th wedding anniversary. by *Patton.

House Resolution No. 177 -- Memorials, Personal Occasion - Dr. and Mrs. Charles W. Edwards, 50th wedding anniversary. by *Patton.

House Resolution No. 178 -- Memorials, Personal Occasion - Mr. and Mrs. Jesse Curtis, 60th wedding anniversary. by *Patton.

House Joint Resolution No. 588 -- Memorials, Death - Chet Atkins. by *Goins, *Stanley, *Boyer.

**SENATE JOINT RESOLUTIONS
(Congratulatory and Memorializing)**

Pursuant to **Rule No. 17**, the resolution(s) listed was/were noted as being placed on the Consent Calendar for July 9, 2001:

Senate Joint Resolution No. 466 -- Memorials, Death - Dr. Walter Douglas Hankins. by *Crowe.

Senate Joint Resolution No. 467 -- Memorials, Death - Carrie C. Repass Warrick. by *Crowe.

REPORTS FROM STANDING COMMITTEES

The committees that met on **July 9, 2001**, reported the following:

FINANCE, WAYS AND MEANS

The Finance, Ways and Means Committee recommended for passage: House Bill(s) No(s). 1781. Under the rules, each was transmitted to the Calendar and Rules Committee.

COMMITTEE ON CALENDAR AND RULES

The Calendar and Rules Committee met and set the following bill(s) on the **Regular Calendar for July 9, 2001**: House Bill(s) No(s). 1781.

CONSENT CALENDAR

House Resolution No. 176 -- Memorials, Personal Occasion - David Earl and Emma Lee Ferguson, 50th wedding anniversary. by *Patton.

House Resolution No. 177 -- Memorials, Personal Occasion - Dr. and Mrs. Charles W. Edwards, 50th wedding anniversary. by *Patton.

House Resolution No. 178 -- Memorials, Personal Occasion - Mr. and Mrs. Jesse Curtis, 60th wedding anniversary. by *Patton.

House Joint Resolution No. 588 -- Memorials, Death - Chet Atkins. by *Goins, *Stanley.

Senate Joint Resolution No. 466 -- Memorials, Death - Dr. Walter Douglas Hankins. by *Crowe.

Senate Joint Resolution No. 467 -- Memorials, Death - Carrie C. Repass Warrick. by *Crowe.

Rep. Goins moved that all members voting aye on House Joint Resolution No. 588 be added as sponsor, which motion prevailed.

Pursuant to **Rule No. 50**, Rep. Phillips moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, all Senate and House Bills on the Consent Calendar be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Consent Calendar be concurred in, which motion prevailed by the following vote:

Ayes95
Noes0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Kisber, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Tidwell, Tindell, Todd, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Williams, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 95.

A motion to reconsider was tabled.

REGULAR CALENDAR

House Bill No. 1781 -- Taxes - Increases state sales tax by one-quarter cent effective July 1, 2001; repeals all state taxes effective July 1, 2003. Amends TCA Title 3; Title 4; Title 7; Title 8; Title 9; Title 11; Title 16; Title 18; Title 20; Title 29; Title 30; Title 31; Title 32; Title 35; Title 36; Title 38; Title 39; Title 40; Title 43; Title 45; Title 47; Title 48; Title 49; Title 50; Title 54; Title 55; Title 56; Title 57; Title 60; Title 61; Title 62; Title 63; Title 64; Title 65; Title 66; Title 67; Title 68; Title 70 and Title 71. by *Rinks, *Fitzhugh, *Davidson. (*SB349 by *Cooper J, *Clabough)

Further consideration of House Bill No. 1781 previously considered on July 7, 2001, at which time the House adopted Amendment(s) No(s). 1 and the bill was reset for today's Calendar.

Rep. Rinks moved that House Bill No. 1781, as amended be passed on third and final consideration.

Rep. Odom moved to substitute Amendment No. 7 with Amendment No. 13, which motion prevailed.

Rep. Odom moved adoption of Amendment No. 13 as follows:

Amendment No. 13

AMEND House Bill No. 1781 by adding the following new sections immediately preceding the last section and by renumbering the subsequent sections accordingly:

SECTION ____ Tennessee Code Annotated, Section 56-32-224(a), is amended by deleting the subsection in its entirety, and by substituting instead the following language:

All health maintenance organizations doing business in this state shall pay tax on the gross amount of all dollars collected for or from an enrollee participating in the TennCare program or its successor program or any federal waiver received by the state that waives any or all of the provisions of title XIX or pursuant to any other federal law as adopted by amendment to the required title XIX state plan or on such enrollee's behalf in the amount of two percent (2%), and on all other enrollees or on all other enrollee's behalf in the amount of three and three-quarters percent (3.75%).

SECTION ____ Tennessee Code Annotated, Section 56-4-205(a)(1)(A), is amended by deleting the second sentence in its entirety and by substituting instead the following:

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Domestic life insurance companies shall pay a tax equal to one and three-fourths percent (1.75%) of gross premiums received from citizens of and residents of this state; however, with respect to all accident and health insurance policies, domestic life insurance companies shall pay a tax equal to three and one-half percent (3.5%) of all gross premiums received from citizens and residents of this state for such accident and health insurance policies.

SECTION __. Tennessee Code Annotated, Section 56-4-205(a)(1), is amended by deleting subdivision (B) and by substituting instead the following:

(B) For all succeeding calendar years, foreign life insurance companies shall pay a tax equal to one and three-fourths percent (1.75%) of gross premiums received from citizens of and residents of this state; however, with respect to all accident and health insurance policies, foreign life insurance companies shall pay a tax equal to three and one-half percent (3.5%) of all gross premiums received from citizens and residents of this state for such accident and health insurance policies.

SECTION __. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION __. The unnumbered sections of this act added by this amendment shall take effect upon becoming a law, the public welfare requiring it and shall apply to all policies sold or renewed on or after September 1, 2001.

Rep. Newton moved that Amendment No. 13 be tabled, which motion failed by the following vote:

Ayes	30
Noes	49
Present and not voting	2

Representatives voting aye were: Baird, Bowers, Boyer, Buttry, Clem, Cole (Dyer), Davis (Cocke), DeBerry L, Ford, Fowlkes, Fraley, Hagood, Lewis, McCord, McDaniel, McKee, Newton, Phelan, Rhinehart, Rinks, Roach, Sargent, Shaw, Tidwell, Tindell, Vincent, Walker, Westmoreland, White, Wood -- 30.

Representatives voting no were: Armstrong, Arriola, Beavers, Bittle, Black, Briley, Brooks, Brown, Bunch, Caldwell, Chumney, Cole (Carter), Curtiss, Davidson, Davis (Washington), Dunn, Ferguson, Fitzhugh, Givens, Godsey, Hargett, Hargrove, Harwell, Hood, Jones S, Kent, Kernell, Maddox, Miller, Montgomery, Mumpower, Odom, Patton, Phillips, Pruitt, Ridgeway, Rowland, Sands, Scroggs, Sharp, Shepard, Todd, Turner (Hamilton), Turner (Shelby), Turner (Davidson), West, Whitson, Windle, Winningham -- 49.

Representatives present and not voting were: McDonald, Pleasant -- 2.

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Rep. Westmoreland moved that House Bill No. 1781 be re-referred to the House Finance, Ways and Means Committee, which motion failed by the following vote:

Ayes	29
Noes	59

Representatives voting aye were: Armstrong, Bowers, Buttry, Clem, Cole (Dyer), Davidson, Davis (Cocke), Fowlkes, Fraley, Givens, Jones U, Lewis, McCord, McDaniel, McKee, Miller, Phelan, Rinks, Roach, Sargent, Shaw, Tidwell, Towns, Turner (Shelby), Vincent, Walker, Westmoreland, Williams, Mr. Speaker Naifeh -- 29.

Representatives voting no were: Arriola, Baird, Beavers, Bittle, Black, Bone, Boyer, Briley, Brooks, Brown, Buck, Bunch, Caldwell, Chumney, Cole (Carter), Cooper, Curtiss, Davis (Washington), DeBerry J, Dunn, Ferguson, Fitzhugh, Ford, Garrett, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Hood, Johnson, Jones S, Kent, Kernell, Maddox, McDonald, McMillan, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phillips, Pleasant, Pruitt, Rhinehart, Ridgeway, Rowland, Scroggs, Sharp, Shepard, Todd, Turner (Davidson), West, Windle, Winningham, Wood -- 59.

Rep. Newton moved the previous question on Amendment No. 13, which motion prevailed.

On motion, Amendment No. 13 failed by the following vote:

Ayes	30
Noes	56
Present and not voting	4

Representatives voting aye were: Arriola, Black, Brooks, Brown, Buck, Bunch, Chumney, Cooper, Curtiss, Davidson, Fitzhugh, Hargrove, Harwell, Jones S, Kernell, Maddox, Odom, Phelan, Phillips, Pruitt, Rhinehart, Ridgeway, Shepard, Todd, Towns, Turner (Hamilton), Turner (Davidson), West, Williams, Winningham -- 30.

Representatives voting no were: Armstrong, Baird, Beavers, Bittle, Bone, Bowers, Boyer, Briley, Buttry, Caldwell, Clem, Cole (Carter), Cole (Dyer), Davis (Cocke), DeBerry J, DeBerry L, Ferguson, Ford, Fowlkes, Fraley, Garrett, Givens, Goins, Hagood, Hood, Johnson, Jones U, Kent, Lewis, McCord, McDaniel, McMillan, Miller, Montgomery, Mumpower, Newton, Overbey, Patton, Pleasant, Rinks, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Tidwell, Tindell, Turner (Shelby), Vincent, Walker, Westmoreland, White, Whitson, Windle, Mr. Speaker Naifeh -- 56.

Representatives present and not voting were: Davis (Washington), Dunn, Godsey, Wood -- 4.

A motion to reconsider was tabled.

Rep. Odom moved that Amendment No. 8 be withdrawn, which motion prevailed.

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Rep. Odom moved adoption of Amendment No. 9 as follows:

Amendment No. 9

AMEND House Bill No. 1781 by adding the following new sections immediately preceding the last section and by renumbering the subsequent sections accordingly:

SECTION _____. Tennessee Code Annotated, Section 67-4-1004(a), is amended by deleting the language "six and one-half (6 ½) mills", and by substituting instead the language "nineteen and one-half (19.5) mills".

SECTION _____. Any wholesale dealers, jobbers, tobacco distributors, and retail dealers having cigarette tax stamps, affixed and unaffixed, in their possession on July 31, 2001, shall not be required to pay the additional cigarette tax levied by this act on such stamps.

SECTION _____. The unnumbered sections added by this amendment shall take effect on August 1, 2001, the public welfare requiring it.

Rep. Westmoreland moved the previous question on Amendment No. 9, which motion prevailed.

On motion, Amendment No. 9 failed by the following vote:

Ayes	28
Noes	59
Present and not voting	2

Representatives voting aye were: Arriola, Black, Boyer, Brooks, Brown, Buck, Caldwell, Chumney, Clem, Curtiss, Dunn, Fitzhugh, Garrett, Harwell, Hood, Jones S, Jones U, Kernell, Maddox, Odom, Patton, Phillips, Pruitt, Sharp, Tidwell, Towns, West, Wood -- 28.

Representatives voting no were: Armstrong, Baird, Beavers, Bittle, Bone, Bowers, Briley, Buttry, Cole (Carter), Cole (Dyer), Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Ferguson, Ford, Fowlkes, Fraley, Givens, Godsey, Goins, Hagood, Hargrove, Johnson, Kent, Kisber, McCord, McDaniel, McDonald, McKee, Miller, Montgomery, Mumpower, Newton, Overbey, Phelan, Pleasant, Rhinehart, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Shaw, Shepard, Tindell, Turner (Hamilton), Turner (Shelby), Vincent, Walker, Westmoreland, White, Whitson, Williams, Windle, Winningham, Mr. Speaker Naifeh -- 59.

Representatives present and not voting were: Bunch, Todd -- 2.

A motion to reconsider was tabled.

Rep. Bunch moved that Amendment No. 10 be held on the Clerk's desk to follow House Bill No. 1781, which motion prevailed.

Rep. Turner (Davidson) moved that Amendment No. 11 be withdrawn, which motion prevailed.

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Rep. Dunn moved adoption of Amendment No. 12 as follows:

Amendment No. 12

AMEND House Bill No. 1781 by adding the following new sections immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION __. Tennessee Code Annotated, Section 67-4-1004(a), is amended by deleting the language "six and one-half (6 ½) mills", and by substituting instead the language "nine and one-half (9.5) mills".

SECTION __. Tennessee Code Annotated, Section 57-3-302(a), is amended by deleting the language "one dollar and ten cents (\$1.10)", and by substituting instead the language "one dollar and forty cents (\$1.40)".

SECTION __. Tennessee Code Annotated, Section 57-3-302(b), is amended by deleting the language "four dollars (\$4.00)", and by substituting instead the language "four dollars and forty-eight cents (\$4.48)".

SECTION __. Tennessee Code Annotated, Section 57-5-201(a)(1), is amended by deleting the language "three dollars and ninety cents (\$3.90)", and by substituting instead the language "seven dollars and fourteen cents (\$7.14)".

SECTION __. Tennessee Code Annotated, Section 57-6-104(c)(5), is amended by inserting the language "or the state privilege tax levied in Tennessee Code Annotated, Section 57-5-201" immediately following the words "excise tax" in the first sentence.

SECTION __. Any wholesale dealers, jobbers, tobacco distributors, and retail dealers having cigarette tax stamps, affixed and unaffixed, in their possession on July 31, 2001, shall not be required to pay the additional cigarette tax levied by this act on such stamps.

SECTION __. Sections 1 and 6 will take effect on August 1, 2001, the public welfare requiring it.

SECTION __. Sections 2, 3, 4, and 5 will take effect on September 1, 2001, the public welfare requiring it.

Rep. U. Jones moved the previous question on Amendment No. 12, which motion prevailed.

On motion, Amendment No. 12 failed by the following vote:

Ayes	39
Noes	49
Present and not voting	1

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Representatives voting aye were: Arriola, Beavers, Black, Boyer, Brooks, Brown, Buck, Bunch, Caldwell, Chumney, Clem, Curtiss, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Garrett, Godsey, Goins, Hagood, Hargett, Harwell, Hood, Johnson, Jones S, Maddox, McDonald, McMillan, Montgomery, Odom, Overbey, Roach, Rowland, Sharp, Todd, West, Winningham, Wood -- 39.

Representatives voting no were: Armstrong, Baird, Bittle, Bone, Bowers, Briley, Buttry, Cole (Carter), Cole (Dyer), Davidson, Davis (Washington), Davis (Cocke), DeBerry L, Fraley, Givens, Hargrove, Jones U, Kent, Kisber, Lewis, McCord, McDaniel, McKee, Miller, Mumpower, Newton, Phelan, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Sands, Sargent, Scroggs, Shaw, Shepard, Tidwell, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, Westmoreland, White, Whitson, Williams, Windle, Mr. Speaker Naifeh -- 49.

Representatives present and not voting were: Kernell -- 1.

A motion to reconsider was tabled.

BILL RE-REFERRED

Rep. Rinks moved that House Bill No. 1781 be re-referred to the Budget Subcommittee of the House Finance, Ways and Means Committee, which motion prevailed.

RECESS MOTION

On motion, the House stood in recess until 3:30 p.m.

RECESS EXPIRED

The recess having expired, the House was called to order by Mr. Speaker Naifeh.

ROLL CALL DISPENSED WITH

On motion of Rep. Davidson, the roll call was dispensed with.

UNFINISHED BUSINESS

BILL RETURNED TO SENATE

Rep. Cooper requested that Senate Bill No. 1543 be returned to the Senate, which motion prevailed.

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**REPORT OF CHIEF ENGROSSING CLERK
July 9, 2001**

The following bill(s) have been transmitted to the Governor for his action: House Bill(s) No(s). 1828.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE GOVERNOR
July 9, 2001**

MR. SPEAKER: I am directed by the Governor to return herewith: House Joint Resolution(s) No(s). 40, 87, 144, 327 and 585, with his approval.

JAY BALLARD, Counsel to the Governor.

**MESSAGE FROM THE GOVERNOR
July 9, 2001**

MR. SPEAKER: I am directed by the Governor to return herewith: House Bill(s) No(s). 1385 and 1678, with his approval.

JAY BALLARD, Counsel to the Governor.

**ENGROSSED BILLS
July 9, 2001**

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Joint Resolution(s) No(s). 588.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**ENROLLED BILLS
July 9, 2001**

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared House Resolution(s) No(s). 176, 177 and 178; and find same correctly enrolled and ready for the signature of the Speaker.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**SIGNED
July 9, 2001**

The Speaker signed the following: House Resolution(s) No(s). 176, 177 and 178.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

ROLL CALL

The roll call was taken with the following results:

Present96

Representatives present were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Kisber, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Williams, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 96.

RECESS MOTION

On motion of Rep. Davidson, the House stood in recess until 2:00 p.m., Tuesday, July 10, 2001.